

EXHIBIT BB

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10:12:17 Oct 15 2007 ** EMPLOYER RECEIPTS REPORT **
** Print Criteria Page **

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Fund/App/Shift Criteria

10:12:17 Oct 15 2007

** EMPLOYER RECEIPTS REPORT **

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JOBBER LEDGER

Emp Num 001L0055

Emp Num PAID FOR

Work Period Range : 200501 - 200512

Emp Num	PAID FOR	Dep Date	DPTY PER FROM	PER TO APP	Rep Qty	Rate	Rep Amount	Fund	Report Bal.	Rpt Ref
001L0055 MIRON & SONS LAUNDRY	02/25/05 CC	12/27/04 01/21/05	GN	55385.97	0.01250	6923.25	LFG	0.00 AF2588		
		12/27/04 01/21/05	HN	0.00	0.00000	0.00	LFWH	0.00		
		12/27/04 01/21/05	AHM	0.00	0.00000	0.00	LFN	0.00		
		12/27/04 01/21/05	MC	0.00	0.00000	0.00	LFMC	0.00		
001L0055 MIRON & SONS LAUNDRY	04/04/05 CC	01/24/05 02/25/05	GN	66388.44	0.01250	8298.56	LFG	0.00 AF7452		
		01/24/05 02/25/05	HN	0.00	0.00000	0.00	LFWH	0.00		
		01/24/05 02/25/05	AHM	0.00	0.00000	0.00	LFN	0.00		
		01/24/05 02/25/05	MC	46.00	0.00000	0.00	LFMC	0.00		
001L0055 MIRON & SONS LAUNDRY	04/13/05 CC	02/28/05 03/25/05	GN	57535.41	0.01250	7191.32	LFG	-0.01 AF8504		
		02/28/05 03/25/05	HN	0.00	0.00000	0.00	LFWH	0.00		
		02/28/05 03/25/05	MC	204.00	0.00000	0.00	LFMC	0.00		
		03/28/05 04/29/05	GN	55657.64	0.01250	6933.46	LFG	-3.75 AG7778		
		03/28/05 04/29/05	HN	0.00	0.00000	0.00	LFN	0.00		
		03/28/05 04/29/05	AHM	0.00	0.00000	0.00	LFWH	0.00		
		03/28/05 04/29/05	MC	-55657.64	0.01250	-6933.46	LFG	3.75 AG7807		
001L0055 MIRON & SONS LAUNDRY	06/27/05 CC	05/02/05 05/27/05	GN	0.00	0.00000	0.00	LFMC	0.00		
		05/02/05 05/27/05	HN	0.00	0.00000	0.00	LFWH	0.00		
		05/02/05 05/27/05	AHM	0.00	0.00000	0.00	LFN	0.00		
		05/02/05 05/27/05	MC	0.00	0.00000	0.00	LFMC	0.00		
001L0055 MIRON & SONS LAUNDRY	06/27/05 CC	05/02/05 05/27/05	GN	55627.64	0.01250	6933.46	LFG	0.00 AG7808		
		05/02/05 05/27/05	HN	0.00	0.00000	0.00	LFN	0.00		
		05/02/05 05/27/05	AHM	0.00	0.00000	0.00	LFWH	0.00		
		05/02/05 05/27/05	MC	58951.56	0.01250	7293.95	LFG	0.00 AH0691		
001L0055 MIRON & SONS LAUNDRY	07/21/05 CC	05/30/05 06/24/05	GN	0.00	0.00000	0.00	LFMC	0.00		
		05/30/05 06/24/05	HN	0.00	0.00000	0.00	LFWH	0.00		
		05/30/05 06/24/05	AHM	0.00	0.00000	0.00	LFN	0.00		
		05/30/05 06/24/05	MC	42.00	0.00000	0.00	LFMC	0.00		
001L0055 MIRON & SONS LAUNDRY	08/16/05 CC	06/27/05 07/29/05	GN	75176.39	0.01250	9397.14	LFG	0.00 AH3770		
		06/27/05 07/29/05	HN	0.00	0.00000	0.00	LFWH	0.00		
		06/27/05 07/29/05	AHM	0.00	0.00000	0.00	LFN	0.00		
		06/27/05 07/29/05	MC	54011.74	0.01250	6751.47	LFG	0.00 AH8222		
001L0055 MIRON & SONS LAUNDRY	08/26/05 CC	08/01/05 08/26/05	GN	0.00	0.00000	0.00	LFN	0.00		
		08/01/05 08/26/05	HN	0.00	0.00000	0.00	LFMC	0.00		
		08/01/05 08/26/05	AHM	0.00	0.00000	0.00	LFWH	0.00		
		08/01/05 08/26/05	MC	36.00	0.00000	0.00	LFMC	0.00		
001L0055 MIRON & SONS LAUNDRY	10/20/05 CC	09/26/05 09/30/05	GN	12884.64	0.01250	1610.58	LFG	0.00 AI1507		
		09/26/05 09/30/05	HN	0.00	0.00000	0.00	LFN	0.00		
		09/26/05 09/30/05	AHM	0.00	0.00000	0.00	LFMC	0.00		
		09/26/05 09/30/05	MC	39.00	0.00000	0.00	LFMC	0.00		
001L0055 MIRON & SONS LAUNDRY	12/15/05 CC	10/03/05 10/28/05	GN	56665.34	0.01250	7070.75	LFG	0.01 AI8716		
		10/03/05 10/28/05	HN	0.00	0.00000	0.00	LFN	0.00		
		10/03/05 10/28/05	AHM	0.00	0.00000	0.00	LFN	0.00		

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 JOBBER LEDGER

Emp Num 001L0055

Emp Num PAID FOR

Work Period Range : 200501 - 200512

	Dep Date	DPTY PER FROM	PER TO App	Rep Qty	Rate	Rep Amount	Fund	Report Bal.	Rpt Ref
001L0055 MIRON & SONS LAUNDRY	01/03/05	10/28/05 MC	44.00	0.00000	0.00 LFMC	0.00			
	10/31/05	11/25/05 GW	60425.91	0.00250	7553.24 LFG	0.00			AJ0608
	10/31/05	11/23/05 HW	0.00	0.00000	0.00 LFHW	0.00			
	10/31/05	11/25/05 AHW	0.00	0.00000	0.00 LFN	0.00			
	10/31/05	11/23/05 MC	44.00	0.00000	0.00 LFMC	0.00			
001L0055 MIRON & SONS LAUNDRY	01/25/06	11/28/05 MC	55992.77	0.01500	6939.11 LFG	-279.95			AJ12790
	11/28/05	12/23/05 GW	0.00	0.00000	0.00 LFHW	0.00			
	11/28/05	12/23/05 HW	0.00	0.00000	0.00 LFN	0.00			
	11/28/05	12/23/05 AHW	0.00	0.00000	0.00 LFMC	0.00			
	11/28/05	12/23/05 MC	45.00	0.00000	0.00 LFMC	0.00			

TOTALS FOR Employer Number 001L0055

	727918.98	90921.95	-279.91
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 JOBBER LEDGER
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*** GRAND TOTALS ***

Emp Num	PAID FOR	Dep Date	DpTy	PER FROM	PER TO App	Rep Qty	Rate	Rep Amount	Fund	Report Bal.	Rpt Ref
GW		671382.21	0.01250	83922.84	LFG						
GW		59992.77	0.01300	6989.11	LFG		0.04			-279.95	
		727374.98		90921.95						-279.91	
HW		0.00	0.00000	0.00	LFHW						
AHW		0.00	0.00000	0.00	LFN		0.00				
MC		544.00	0.00000	0.00	LFMC		0.00				
		727918.98		90921.95						-279.91	

TOTAL EMPLOYERS : 1
 TOTAL REPORTS : 15

EXHIBIT CC

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** Print Criteria Page **

Run Number	:	A25579	Criteria Name	:	EF ACT2 JOB ALL					
Sort By	:	Employer Name								
Total By	:	Work Period								
Break Page	:	Employer Number								
Report Title	:	JOBBER LEDGER								
Print Employer Address	:	N								
Print Employer Audit Info	:	N								
Employer Report Count	:	G								
Total on Funds Within Refno	:	N								
Use Fund Distribution	:	N								
Print Blank Line bet. Refno.	:	N								
Employer Status Date	:	Both								
Contract Link Date	:	Both								
Break Down Totals By Fund	:	N								
Single/List/All	:	A								
Employer/Report Reference Number	:									
List Name/Key	:									
Receive From Date	:									
Receive Thru Date	:									
Posting From Date	:									
Posting Thru Date	:									
Work Period From	:	200601								
Work Period Thru	:	200612								
Close Period From	:									
Close Period Thru	:									
Totals Only	:									
Deposit Date From	:									
Deposit Date Thru	:									
Employer Status From Date	:	10/15/2007								
Employer Status Thru Date	:	10/15/2007								
Contract Effective Date	:									
Contract Expiration Date	:									
Group	Fund	Contract	App	Area	Dep Type	Region	Rate	Local	Association	Empl Type
To Include	To Include	To Include	To Include	To Include	To Include	To Include	To Include	To Include	To Include	To Include
====	====	====	====	====	====	====	====	====	====	====
Distr. Cncl	Tax Id (EIN)	Employer Sts Remitter								
To Include	To Include	To Include	To Include	To Include						
=====	=====	=====	=====	=====	=====	=====	=====	=====	=====	=====
Fund/App/Shift Criteria	001L0055									

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** EMPLOYER RECEIPTS REPORT **

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JOBBER LEDGER

Emp Num 001L0055

Emp Num PAID FOR

Work Period Range : 200601 - 200612

Emp Num	PAID FOR	Dep Date	DPTY PER FROM	PER TO APP	Rep Qty	Rate	Rep Amount	Fund	Report Bal.	Rpt Ref
001L0055	MIRON & SONS LAUNDRY	01/12/06 CC	12/26/05 12/30/05 GN		15898.95	0.01300	1987.37	LFG	-79.49	AJ2791
			12/26/05 12/30/05 AHM		0.00	0.00000	0.00	LFHM	0.00	
			12/26/05 12/30/05 MC		0.00	0.00000	0.00	LFN	0.00	
					45.00	0.00000	0.00	LFMC	0.00	
					50418.85	0.01300	6554.46	LFG	0.01	AJ9050
			01/02/06 01/27/06 GN		0.00	0.00000	0.00	LFHN	0.00	
			01/02/06 01/27/06 AHM		0.00	0.00000	0.00	LFN	0.00	
			01/02/06 01/27/06 MC		45.00	0.00000	0.00	LFMC	0.00	
			01/30/06 02/24/06 GN		52554.95	0.01300	6833.42	LFG	-0.02	AK2158
			01/30/06 02/24/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			01/30/06 02/24/06 MC		0.00	0.00000	0.00	LFN	0.00	
			02/27/06 03/24/06 GN		42.00	0.00000	0.00	LFMC	0.00	
			02/27/06 03/24/06 AHM		0.00	0.00000	0.00	LFN	0.00	
			02/27/06 03/24/06 MC		0.00	0.00000	0.00	LFHM	0.00	
			03/27/06 03/31/06 GN		12372.73	0.01300	6386.07	LFG	-0.01	AK6853
			03/27/06 03/31/06 AHM		0.00	0.00000	0.00	LFHN	0.00	
			03/27/06 03/31/06 MC		0.00	0.00000	0.00	LFN	0.00	
			04/03/06 04/28/06 GN		51218.18	0.01300	6658.35	LFG	-0.01	AK8983
			04/03/06 04/28/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			04/03/06 04/28/06 MC		0.00	0.00000	0.00	LFN	0.00	
			04/03/06 05/05/06 GN		11515.93	0.01300	1495.77	LFG	0.00	AL3959
			04/03/06 05/05/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			04/03/06 05/05/06 MC		0.00	0.00000	0.00	LFN	0.00	
			05/01/06 05/12/06 GN		37.00	0.01300	1394.38	LFG	-0.01	AL3960
			05/01/06 05/12/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			05/01/06 05/12/06 MC		0.00	0.00000	0.00	LFN	0.00	
			05/12/06 05/19/06 GN		11020.40	0.01300	1432.65	LFG	0.00	AL3962
			05/12/06 05/19/06 AHM		0.00	0.00000	0.00	LFHN	0.00	
			05/12/06 05/19/06 MC		0.00	0.00000	0.00	LFN	0.00	
			05/12/06 05/26/06 GN		36.00	0.00000	0.00	LFMC	0.00	
			05/12/06 05/26/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			05/12/06 05/26/06 MC		0.00	0.00000	0.00	LFN	0.00	
			05/29/06 06/01/06 GN		42426.81	0.01300	5515.47	LFG	-0.02	AL7560
			05/29/06 06/01/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			05/29/06 06/01/06 MC		11520.26	0.01300	1497.63	LFG	0.00	AL3963
			05/29/06 06/01/06 AHM		0.00	0.00000	0.00	LFHN	0.00	
			05/29/06 06/01/06 MC		0.00	0.00000	0.00	LFN	0.00	
			06/26/06 06/30/06 GN		9531.75	0.01300	1239.12	LFG	-0.01	AL7559
			06/26/06 06/30/06 AHM		0.00	0.00000	0.00	LFHN	0.00	
			06/26/06 06/30/06 MC		36.00	0.00000	0.00	LFN	0.00	
			07/03/06 07/28/06 GN		38186.08	0.01300	4965.48	LFG	-0.01	AM1453
			07/03/06 07/28/06 AHM		0.00	0.00000	0.00	LFHM	0.00	
			07/03/06 07/28/06 MC		0.00	0.00000	0.00	LFN	0.00	

PAG
** REPORT

JOBBER LEDGER

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TOTALS FOR Employers Number 001-005

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** EMPLOYER RECEIPTS REPORT **

JOBBER LEDGER

*** GRAND TOTALS ***

EMP NUM PAID FOR

TOTAL EMPLOYERS : 1
TOTAL REPORTS : 23

EXHIBIT DD



--- F.Supp.2d ----
 --- F.Supp.2d ----, 2008 WL 501362 (S.D.N.Y.)
 (Cite as: --- F.Supp.2d ----)

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The Trustees of the UNITE HERE National Health Fund v. JY Apparel, Inc.
 S.D.N.Y., 2008.

Only the Westlaw citation is currently available.
 United States District Court, S.D. New York.
 THE TRUSTEES OF THE UNITE HERE NATIONAL HEALTH FUND and the Trustees of the
 Unite Here National Retirement Fund, Petitioners,
 v.
 JY APPARELS, INC., Respondent.
 No. 07 Civ. 6515(RJH).

Feb. 19, 2008.

Background: Employee benefit funds petitioned to confirm arbitration award against employer.

Holdings: The District Court, Richard J. Holwell, J., held that:

- (1) court would confirm arbitration award, and
- (2) award of costs and interest was warranted.

Petition granted.

[1] Alternative Dispute Resolution 25T ↗357

25T Alternative Dispute Resolution
 25TII Arbitration
 25TII(H) Review, Conclusiveness, and Enforcement of Award
 25Tk353 Confirmation or Acceptance by Court
 25Tk357 k. Proceedings. Most Cited Cases

Alternative Dispute Resolution 25T ↗363(9)

25T Alternative Dispute Resolution
 25TII Arbitration
 25TII(H) Review, Conclusiveness, and Enforcement of Award
 25Tk360 Impeachment or Vacation
 25Tk363 Motion to Set Aside or Vacate

25Tk363(9) k. Determination and Disposition. Most Cited Cases
 Default judgments in proceedings to confirm or vacate arbitration award are generally inappropriate.

[2] Alternative Dispute Resolution 25T ↗357

25T Alternative Dispute Resolution
 25TII Arbitration
 25TII(H) Review, Conclusiveness, and Enforcement of Award
 25Tk353 Confirmation or Acceptance by Court
 25Tk357 k. Proceedings. Most Cited Cases

Alternative Dispute Resolution 25T ↗363(1)

25T Alternative Dispute Resolution
 25TII Arbitration
 25TII(H) Review, Conclusiveness, and Enforcement of Award
 25Tk360 Impeachment or Vacation
 25Tk363 Motion to Set Aside or Vacate
 25Tk363(1) k. In General. Most Cited Cases
 Generally, a district court should treat an unanswered petition to confirm/vacate arbitration award as an unopposed motion for summary judgment.

[3] Alternative Dispute Resolution 25T ↗357

25T Alternative Dispute Resolution
 25TII Arbitration
 25TII(H) Review, Conclusiveness, and Enforcement of Award
 25Tk353 Confirmation or Acceptance by Court
 25Tk357 k. Proceedings. Most Cited Cases
 Normally, confirmation of an arbitration award is a summary proceeding that merely makes what is already a final arbitration award a judgment of the

--- F.Supp.2d ----
 --- F.Supp.2d ----, 2008 WL 501362 (S.D.N.Y.)
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court, and the court must grant the award unless the award is vacated, modified, or corrected.

[4] Alternative Dispute Resolution 25T ↪358

25T Alternative Dispute Resolution

25TII Arbitration

25TII(H) Review, Conclusiveness, and Enforcement of Award

25Tk353 Confirmation or Acceptance by Court

25Tk358 k. Scope of Inquiry. Most Cited Cases

Only a barely colorable justification for the outcome reached by the arbitrators is necessary to confirm the award.

[5] Alternative Dispute Resolution 25T ↪329

25T Alternative Dispute Resolution

25TII Arbitration

25TII(G) Award

25Tk327 Mistake or Error

25Tk329 k. Error of Judgment or Mistake of Law. Most Cited Cases

The court must enter judgment for the party seeking to confirm arbitration award unless the opposing party shows that the award was based on a manifest disregard for the law.

[6] Labor and Employment 231H ↪1595(4)

231H Labor and Employment

231HXII Labor Relations

231HXII(H) Alternative Dispute Resolution

231HXII(H)4 Proceedings

231Hk1590 Award

231Hk1595 Particular Awards in General

231Hk1595(4) k. Pensions and Other Benefits. Most Cited Cases

Confirmation of arbitration award entered against employer and in favor of employee benefit funds due to employer's failure to make its required contributions to funds was warranted; employer offered no opposition to award, arbitrator sufficiently justi-

fied his conclusion, arbitrator based damages on an audit of employer's payroll records conducted by the funds, arbitrator noted that funds demanded payment and employer refused, and arbitrator did not manifestly disregard the law.

[7] Interest 219 ↪31

219 Interest

219II Rate

219k31 k. Computation of Rate in General. Most Cited Cases

Interest 219 ↪39(1)

219 Interest

219III Time and Computation

219k39 Time from Which Interest Runs in General

219k39(1) k. In General. Most Cited Cases

Labor and Employment 231H ↪1631

231H Labor and Employment

231HXII Labor Relations

231HXII(H) Alternative Dispute Resolution

231HXII(H)5 Judicial Review and Enforcement

231Hk1631 k. Costs and Attorney Fees. Most Cited Cases

Award of interest and court costs incurred by employee benefit funds during successful proceeding to confirm arbitration award against employer was warranted under ERISA; interest and court costs would be calculated at a rate of one percent per month for period spanning from date of the arbitration award to date funds applied for default judgment on their petition to confirm arbitration award, as set forth in collective bargaining agreement (CBA) under which funds were established. Employee Retirement Income Security Act of 1974, § 502(g)(2)(B, D), 29 U.S.C.A. §§ 1132(g)(2)(B, D); Labor-Management Reporting and Disclosure Act of 1959, § 502(g)(2), 29 U.S.C.A. § 502(g)(2).

Mark Schwartz, Amalgamated Life Insurance Co.

--- F.Supp.2d ---
 --- F.Supp.2d ---, 2008 WL 501362 (S.D.N.Y.)
 (Cite as: --- F.Supp.2d ---)

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Inc., New York City, for Petitioners.

MEMORANDUM OPINION AND ORDER

RICHARD J. HOLWELL, District Judge.

*1 On July 19, 2007, Trustees of the UNITE HERE National Health Fund and the Trustees of the UNITE HERE National Retirement Fund, filed a petition to confirm an arbitration award against JY Apparels, Inc. Service of the summons and complaint was made on the respondent on July 25, 2007. Respondent did not answer the complaint or otherwise move with respect to the petition. This Court has examined the record upon which the arbitration award was based, *D.H. Blair & Co., Inc., v. Gottdiener*, 462 F.3d 95 (2d Cir.2006), and for the reasons stated below, grants the petition to confirm the arbitration award.

BACKGROUND

The dispute stems from a collective bargaining agreement (the "Agreement") between the Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC, presently known as UNITE HERE, and employers in the clothing industry. The petitioners are employee benefit funds established under the Agreement and the respondent is a party to the Agreement. The Agreement obligates respondent to contribute to the funds based upon a specified percentage of its gross payroll.

Respondent failed to make its required contributions to the funds from April 1, 2006, to May 30, 2006. Pursuant to the Agreement, the petitioners referred the dispute to arbitration. They served a notice of arbitration on the respondent on November 27, 2006. The respondents did not move for a stay of arbitration. The arbitration hearing was held on December 19, 2006. Neither the respondents nor any representative of the respondents appeared at the hearing. The arbitrator, Dr. Phillip Ross, examined the evidence presented by the petitioners and found that the respondent violated the Agreement by failing to contribute to the funds.

The arbitrator calculated damages based on evidence that showed the respondent's contributions to the funds before April 1, 2006. Although the petitioners served a subpoena upon the respondent to produce its payroll records, the respondent failed to do so. At the hearing, the petitioners provided a summary of the respondent's prior contributions; the arbitrator awarded damages based on this summary. To petitioner UNITE HERE National Health Fund, the arbitrator awarded total damages of \$2,819.13 (\$2,499.00 for delinquent contributions, \$95.13 for interest, \$50.00 for arbitrator's fees, and \$100.00 for default fees (as provided in the Agreement), and \$75.00 for legal fees). To petitioner UNITE HERE National Retirement Fund, the arbitrator awarded total damages of \$239.53 (\$14.00 for delinquent contributions, \$0.53 for interest, \$50.00 for arbitrator's fees, and \$100.00 for default fees (as provided in the Agreement), and \$75.00 for legal fees). The arbitrator calculated the interest award pursuant to the terms of the Agreement and section 1132(g)(2)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), which allows a court to award a plan or its trustees interest on unpaid contributions if judgment is awarded in favor of the plan.

*2 The petitioners served a copy of the arbitration award on the respondents on January 3, 2007. The respondent did not pay. Seeking judicial enforcement, the petitioners commenced this action to confirm the arbitration award on July 19, 2007. Respondent was served with notice of the petition on July 25, 2007. The respondent did not appear, answer, or otherwise move with respect to the petition. The petitioner applied for default judgment and served the respondent with notice of the application on October 31, 2007.

DISCUSSION

[1][2]"[D]efault judgments in confirmation/vacatur proceedings are generally inappropriate." *D.H. Blair & Co., Inc.*, 462 F.3d at 109. The record accompanying a motion to confirm an arbitration award

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--- F.Supp.2d ---, 2008 WL 501362 (S.D.N.Y.)
(Cite as: --- F.Supp.2d ---)

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"may resolve many of the merits or at least command judicial deference." *Id.* Therefore, "generally, a district court should treat an unanswered ... petition to confirm/vacate as an unopposed motion for summary judgment." *Id.* at 110. In essence, "the petition and the accompanying record" become "a motion for summary judgment." *Id.*

When ruling on a summary judgment motion, a court "may not grant the motion without first examining the moving party's submission to determine if it has met its burden of demonstrating that no material issue of fact remains for trial." *Id.* at 109-10. The court's ruling must be based on the record, which includes the arbitration agreement and the arbitration award. *Id.* Thus, when ruling on a motion to confirm an arbitration award, the court "cannot base the entry of summary judgment on the mere fact that the motion was unopposed, but, rather, must consider the merits of the motion." *United States v. 5800 SW 74th Ave.*, 363 F.3d 1099, 1101 (11th Cir.2004).

Summary judgment may not be granted unless "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). The burden of demonstrating the absence of an issue of material factual rests on the moving party. *Sista v. CDC Ixis N. Amer., Inc.*, 445 F.3d 161, 169 (2d Cir.2006). In ruling on a summary judgment motion, the court must view all facts in the light most favorable to the non-moving party. *Id.*

[3][4][5]"Normally, confirmation of an arbitration award is a summary proceeding that merely makes what is already a final arbitration award a judgment of the court, and the court must grant the award unless the award is vacated, modified, or corrected." *D.H. Blair & Co., Inc.*, 462 F.3d at 110 (citation omitted)."Only a barely colorable justification for the outcome reached by the arbitrators is necessary to confirm the award." *Id.* (quoting *Landy Michaels Realty Corp. v. Local 32B-32J, Serv. Em-*

ployees Int'l Union, 954 F.2d 794, 797 (2d Cir.1992)). The court must enter judgment for the party seeking to confirm the award unless the opposing party shows that the award was based on a manifest disregard for the law. *Wilko v. Swan*, 346 U.S. 427, 436-37, 74 S.Ct. 182, 98 L.Ed. 168 (1953).

*3 [6] First, the petitioners have sufficiently shown that there is no question of material fact. The respondents have offered no opposition and have not raised any questions of fact. Second, the arbitrator sufficiently justified his conclusion. He awarded damages based on "an audit of the [r]espondent's payroll records conducted by the [petitioner]." (Schwartz Aff. Ex. A at 2, Oct. 29, 2007.) He noted that the petitioners demanded payment and the respondent refused. (*Id.*) He awarded interest on the unpaid contributions in accordance with ERISA. (*Id.* at 3.) Finally, the respondents have not shown, and the court does not find a manifest disregard for the law or any other reason why court should deny the motion to confirm. Therefore, the motion to confirm the arbitration award should be granted.

[7] The petitioners also seek interest and court costs for this proceeding to confirm the arbitration award. ERISA permits a court to award a benefit plan or its trustees "interest on the unpaid contributions," 29 U.S.C. § 1132(g)(2)(B), as well as "costs of the action," 29 U.S.C. § 1132(g)(2)(D), if judgment is rendered in favor of the plan. The respondent must pay "an amount equal to the greater of: (i) interest on the unpaid contributions, or (ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent." 29 U.S.C. § 502(g)(2). The Agreement does not provide for liquidated damages but provides for interest on unpaid contributions at a rate of "1% per month." (Schwartz Aff. Ex. C, "Agreement and Declaration of Trust" at 4, Oct. 29, 2007). Accordingly, for the period spanning from the date of the arbitration award, December 20, 2007, through October 22, 2007, petitioner UNITE HERE National Health Fund is awarded interest in

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the amount of \$274.89 and petitioner UNITE HERE National Retirement Fund is awarded interest in the amount of \$1.54.

Including the arbitration award, the total award payable to petitioner UNITE HERE National Health Fund is \$3,094.02 and the total award payable to petitioner UNITE HERE National Retirement Fund is \$241.07. In addition, the petitioners are awarded the costs of the instant proceeding in the amount of \$350.00.

CONCLUSION

For the foregoing reasons, the petition to confirm the arbitration award is GRANTED.

SO ORDERED.

S.D.N.Y.,2008.
The Trustees of the UNITE HERE National Health Fund v. JY Apparel, Inc.
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